

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JASON RIVERA,

Plaintiff,

-against-

UNITED STATES OF AMERICA,

Defendants.

Case No.:

COMPLAINT

Plaintiff JASON RIVERA, by his attorneys, Rickner PLLC, complaining of the Defendants, alleges, upon information and belief and personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action for damages under the Federal Tort Claims Act (“FTCA”) for the brutal and permanent injuries he suffered at the hands of federal agents while detained by the Bureau of Prisons (“BOP”) in the Manhattan Detention Center (“MDC”) in Brooklyn, New York.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. § 1331, 28 U.S.C. § 1346(b), and 28 U.S.C. §§ 2761–80.

3. Venue is proper under 28 U.S.C. § 1402(b) in the District Court for the Eastern District of New York, because the acts and omissions giving rise to Plaintiff’s claims occurred within the Eastern District of New York.

4. In November 2023, Plaintiff properly served his claims on the Bureau of Prisons, as required by 28 U.S.C. §§ 2765(a).

5. It has been over six months and Plaintiff has not received a response from the BOP,

which statutorily results in a final denial of his claim.

6. Accordingly, Plaintiff has complied with all statutorily jurisdictional requirements and conditions precedent to commencement and prosecution of this litigation.

PARTIES

7. Plaintiff current is and has been at all times relevant to this action, a resident of Kings County in the State of New York.

8. Defendant United States of America is sued for personal injuries to Plaintiff caused by the wrongful or negligent acts or omission of Defendants' agents or employees, who were acting within the scope of the office or employment under circumstances where the United States of America, if a private person, would be liable to Plaintiff in accordance with the laws of the State of New York. *See* 28 U.S.C. § 1346(b).

FACTUAL ALLEGATIONS

9. On July 25, 2022, around approximately 10:00-11:00 a.m., Plaintiff was in Cell 13, Unit 62, in MDC in Brooklyn, New York, when he and other incarcerated individuals were told that the warden had cancelled all visits for that day.

10. Plaintiff was supposed to see his wife, was understandably upset by this; he and the other incarcerated individuals who were expecting visits began kicking their doors to get the attention of corrections officers to find out why visits had been cancelled.

11. Instead of responding to the incarcerated individuals' requests for more information, a Special Investigative Supervisor ("SIS") and team arrived at the unit. One of the SIS, DeMarcy, came to Plaintiff's cell door and said, "You want to kick the fucking door, keep the same energy, I'll be back."

12. Approximately ten minutes later, DeMarcy came back with Lt. Richards and ten other officers. Lt. Richards is believed to be a tall black man with dreads.

13. The officers unlocked Plaintiff's cell door, and he immediately got down on the floor and put his hands behind his back. All the officers piled into the cell and began beating, punching, and kicking him, as well as bending his fingers in different directions.

14. The officers then handcuffed him, put shackles on his legs, and walked him out of the unit. In the sally port, DeMarcy slammed him to the ground. DeMarcy then took him up the elevator to a solitary confinement box on the 9th floor and left him cuffed and shackled for over an hour.

15. It was not until he was transferred to USP Canaan several days later that he was eventually x-rayed, which showed two fractured/cracked ribs on his left side.

**CLAIM FOR RELIEF:
ASSAULT AND BATTERY BY FEDERAL LAW ENFORCEMENT
UNDER THE FEDERAL TORT CLAIMS ACT**

16. Plaintiff repeats, reiterates, and re-alleges each and every allegation contained in the above paragraphs with the same force and effect as if fully set forth herein.

17. BOP agents and employees have a duty to refrain from excessive and unnecessary force against persons within their custody and control.

18. Federal agents breached this duty by beating, punching, and kicking him, causing two fractured ribs, bleeding, and bruising.

19. As a result of this assault and battery, Plaintiff endured immense pain and suffering, and significant, permanent physical injury.

20. The United States is liable for these tortious acts under the Federal Tort Claims Act because they were committed by federal agents or employees who were acting within the scope of

the office or employment, under circumstances where the United States of America, if a private person, would be liable to Plaintiff in accordance with the laws of the State of New York.

WHEREFORE, Plaintiff demands the following relief jointly and severally against all of Defendants:

- a. Compensatory damages;
- b. Punitive damages;
- c. The convening and empaneling of a jury to consider the merits of the claims herein;
- d. Costs and interest and attorney's fees;
- e. Such other and further relief as this court may deem appropriate and equitable.

Dated: New York, New York
June 3, 2024

Rickner PLLC

By: /s/

Sara Wolkensdorfer

14 Wall Street, Suite 1603
New York, New York 10005
Phone: (212) 300-6506
Fax: (888) 390-5401
Attorney for Plaintiff